

DEPARTMENT OF HEALTH & HUMAN SERVICES
Centers for Medicare & Medicaid Services
7500 Security Boulevard, Mail Stop S2-26-12
Baltimore, Maryland 21244-1850



Center for Medicaid, CHIP, and Survey & Certification

JUL 1 8 2011

Jason A. Helgeson
State Medicaid Director
Deputy Commissioner
Office of Health Insurance Programs
NYS Department of Health
Empire State Plaza
Corning Tower, Room 1466
Albany, NY 12237

RE: TN SPA 11-60

Dear Mr. Helgeson:

We have reviewed the proposed amendment to Attachment 4.19-D of your Medicaid State plan submitted under transmittal number (TN) 11-60. Effective May 1, 2011, this amendment proposes that the non-capital component of rates for Residential Health Care Facilities will be subject to a uniform percentage reduction sufficient to reduce rates by an aggregate amount of \$27.1 million, for the period May 1, 2011 through June 30, 2011.

We conducted our review of your submittal according to the statutory requirements at sections 1902(a)(2) 1902(a)(13), 1902(a)(30), and 1903(a) of the Social Security Act and the regulations at 42 CFR 447 Subpart C. This is to inform you that New York 11-60 is approved effective May 1, 2011 and have enclosed the HCFA-179 and the approved plan page.

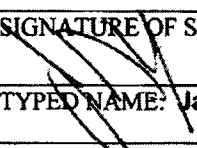

If you have any questions, please contact Tom Brady at 518-396-3810 or Rob Weaver at 410-786-5914.

Sincerely,

A handwritten signature in black ink that reads "Cindy Mann for". The signature is written in a cursive, flowing style.

Cindy Mann
Director, CMCS

Enclosures

TRANSMITTAL AND NOTICE OF APPROVAL OF STATE PLAN MATERIAL FOR: HEALTH CARE FINANCING ADMINISTRATION		1. TRANSMITTAL NUMBER: #11-60	2. STATE New York
		3. PROGRAM IDENTIFICATION: TITLE XIX OF THE SOCIAL SECURITY ACT (MEDICAID)	
TO: REGIONAL ADMINISTRATOR HEALTH CARE FINANCING ADMINISTRATION DEPARTMENT OF HEALTH AND HUMAN SERVICES		4. PROPOSED EFFECTIVE DATE May 1, 2011	
5. TYPE OF PLAN MATERIAL (Check One): <input type="checkbox"/> NEW STATE PLAN <input type="checkbox"/> AMENDMENT TO BE CONSIDERED AS NEW PLAN <input checked="" type="checkbox"/> AMENDMENT COMPLETE BLOCKS 6 THRU 10 IF THIS IS AN AMENDMENT (Separate Transmittal for each amendment)			
6. FEDERAL STATUTE/REGULATION CITATION: Section 1902(a) of the Social Security Act, and 42 CFR 447		7. FEDERAL BUDGET IMPACT: a. FFY 5/1/11 – 9/30/11 (\$15,414,480) b. FFY 10/1/11 – 9/30/12 \$0	
8. PAGE NUMBER OF THE PLAN SECTION OR ATTACHMENT: Attachment 4.19-D: 50(h)		9. PAGE NUMBER OF THE SUPERSEDED PLAN SECTION OR ATTACHMENT (If Applicable): Attachment 4.19-D: 50(h)	
10. SUBJECT OF AMENDMENT: Uniform Rate Reductions - Nursing Homes (Based on FMAP of 56.88% for 4/1/11 – 6/30/11)			
11. GOVERNOR'S REVIEW (Check One): <input checked="" type="checkbox"/> GOVERNOR'S OFFICE REPORTED NO COMMENT <input type="checkbox"/> OTHER, AS SPECIFIED: <input type="checkbox"/> COMMENTS OF GOVERNOR'S OFFICE ENCLOSED <input type="checkbox"/> NO REPLY RECEIVED WITHIN 45 DAYS OF SUBMITTAL			
12. SIGNATURE OF STATE AGENCY OFFICIAL: 		16. RETURN TO: New York State Department of Health Corning Tower Empire State Plaza Albany, New York 12237	
13. TYPED NAME: Jason A. Helgerson			
14. TITLE: Medicaid Director & Deputy Commissioner Department of Health			
15. DATE SUBMITTED: June 9, 2011			
FOR REGIONAL OFFICE USE ONLY			
17. DATE RECEIVED:		18. DATE APPROVED: JUN 10 2011	
PLAN APPROVED – ONE COPY ATTACHED			
19. EFFECTIVE DATE OF APPROVED MATERIAL: MAY - 1 2011		20. SIGNATURE OF REGIONAL OFFICIAL: 	
21. TYPED NAME: PENNY THOMPSON		22. TITLE: Deputy Director, CMES	
23. REMARKS:			

New York
50(h)

Attachment 4.19-D
(04/11)

- (l) For the rate period May 1, 2009 through March 31, 2010, adjustments to the rates of payment resulting from the rebase to 2002 reported base year costs, including initial adjustments for case mix, shall be held to an aggregate increase of \$210 million. If the total adjustments are more or less than \$210 million, proportional adjustments to the rates shall be made as necessary to result in an increase in aggregate expenditures of \$210 million. Such proportional adjustments shall be based on each facility's proportionate share of total spending from the April 1, 2009 rates that reflect the impact of rebasing and Medicaid only case mix. The rate adjustment required to adjust spending to the required \$210 million amount will be reflected as the "scale back adjustment" in the rates effective May 1, 2009 through March 31, 2010. The operating component of such rates shall not be subject to the update adjustments for case mix as otherwise scheduled for January of 2010.

For the annual periods April 1, 2010 through March 31, 2012, if adjustments to the rates of payment prior to the adjustment for inflation results in an increase in total payments for such services on an annual basis, such rates shall be further adjusted proportionally as is necessary to reduce the aggregate increase to no greater than the proportionally adjusted aggregate for the period April 1, 2009 through March 31, 2010. Proportional adjustments made to rates within the aggregate expenditure limit shall not be subject to subsequent correction or reconciliation.

- (m) For the period May 1, 2011 through June 30, 2011, the non-capital components of rates will be subject to a uniform percentage reduction sufficient to reduce such rates by an aggregate amount of \$27,100,000. Such reductions will not be included in the computation of the residential health care facility cap.

JUL 18 2011

TN #11-60

Approval Date _____

Supersedes TN 09-50

Effective Date MAY - 1 2011

OS Notification

State/Title/Plan Number: NY-11-60
Type of Action: SPA Approval
Required Date for State Notification: September 7, 2011

Fiscal Impact:

FY 2011	(\$15,414,480) FFP
FY 2012	\$ - 0 - FFP

Number of Services Provided by Enhanced Coverage, Benefits or Retained Enrollment: 0

Number of Potential Newly Eligible People: 0

Eligibility Simplification: No

Provider Payment Increase: No

Delivery System Innovation: No

Number of People Losing Medicaid Eligibility: 0

Reduces Benefits: No

Detail:

This amendment is part of a larger agreement between nursing homes and the State of New York which is being implemented through a series of State plan amendments (09-50, 11-41, 11-52 and 11-60). The first two amendments were supplemental payments, and last two are payment reductions, all are interconnected and resolve a payment dispute stemming from the State's decision not to fully rebase payment rates using more current cost report information. Full rebasing would have cost approximately \$750 million, and when NY delayed and ultimately decided not to implement, the industry sued.

CMS approved 09-50 (\$210) and 11-41 (\$221.3) in June that collectively provided for \$431.3 million in supplemental payments in the current period. Effective May 1, 2011, this SPA provides for a reduction of non-capital component of rates by an aggregate amount of \$27.1 million for the period May 1, 2011 through June 30, 2011. The net effect can be viewed as a reduction in the supplemental payments, and we asked NY why they did not take that approach to implement this reduction, While the net effect would be the same in the aggregate, the State indicated that the industry believes this approach will result in a more equitable distribution among nursing facilities. NY 11-52 will eliminate supplemental payments to financially disadvantage NFs that obtained relief under 11-41.

The State share associated with the savings was used by the State to help finance the supplemental payments provided for under 11-41.

Other Considerations:

We do not recommend the Secretary contact the governor.

The Regional office has reviewed this state plan amendment in conjunction with the Recovery Act and, based on the available information provided by the State regarding 1) maintenance of effort; 2) local

match; 3) prompt pay; 4) rainy day funds, and 5) eligible expenditures, the Regional Office believes that the State is not in violation of the Recovery Act requirements noted above.

The state provided satisfactory responses to CMS funding and access questions.

This SPA does not impact any I/T/U providers.

CMS Contacts: Rob Weaver, NIRT 410-786-5914 / Tom Brady, NIRT 518-396-3810 x109